

IN THE SENATE

SENATE BILL NO. 1361, As Amended

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO DEALERS AND SALESMEN LICENSING; AMENDING SECTION 49-1602, IDAHO CODE, TO DELETE REFERENCE TO AN OPEN BOOK EXAMINATION AND TO PROVIDE EDUCATION REQUIREMENTS RELATING TO A PRELICENSING CLASS OR PROGRAM; AND AMENDING SECTION 49-1637, IDAHO CODE, TO DELETE REFERENCE TO A COMPREHENSIVE OPEN BOOK EXAMINATION AND TO REVISE PROVISIONS RELATING TO EDUCATION REQUIREMENTS FOR VEHICLE DEALERS; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 49-1602, Idaho Code, be, and the same is hereby amended to read as follows:

49-1602. ADMINISTRATION -- POWERS AND DUTIES. The department shall:

(1) Issue, and for reasonable cause shown, refuse to issue an applicant any license authorized under the provisions of this chapter. The department may refuse to issue a license to any applicant, other than a partnership or corporation, if the applicant fails to comply with the terms and provisions of this chapter or the rules of the board, or if the applicant has been convicted of a violation of any of the provisions of this chapter or chapter 5, title 49, or section 49-1418 or chapter 6, title 48, Idaho Code, or of any federal odometer law or regulation. Should the applicant be a partnership or a corporation, the department may refuse to issue a license to the applicant where it determines that one (1) or more of the partners of a partnership, or one (1) or more of the stockholders or officers of a corporation, was previously the holder of a license which was revoked or suspended, and the license revoked never reissued or the suspended license never reinstated, or that one (1) or more of the partners, stockholders, or officers, though not previously the holder of a license, has violated any of the provisions of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(2) For just cause shown, revoke or suspend, on terms, conditions, and for a period of time as the department shall consider fair and just, any license or licenses issued pursuant to the provisions of this chapter. No license shall be revoked or suspended unless it shall be shown that the licensee has violated a provision of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(3) On its own motion, upon the sworn complaint of any person, investigate any suspected or alleged violation by a licensee of any of the provisions of this chapter or of an applicable rule or regulation.

(4) Prescribe forms for applications for licenses and qualifications for an applicant for licensure. Every application for a license shall contain, in addition to other information required by the department, the following:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business. If the applicant is a copartnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street number, of the principal place of business and any other and additional places of business operated and maintained by the applicant in conjunction with the principal place of business.

(c) Copies of any letters of franchise for new vehicles that the applicant has been enfranchised to sell or exchange, and the name or names and addresses of the manufacturer or distributor who has enfranchised the applicant.

(d) Names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(e) A copy of the certificate of assumed business name, if required, shall be filed with the secretary of state.

(f) For a manufacturer's license, the name or names and addresses of each and every distributor, factory branch, and factory representative.

(g) For a salesman's license, certification by the dealer by whom the salesman will be employed, that he has examined the background of the applicant, and to the best of the dealer's knowledge, is qualified to be licensed under the sponsorship of the licensed dealer.

(h) Before a dealer who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, may apply for a renewal of a vehicle dealer's license, he shall provide to the department a certification from an accredited educational system, private vocational school, correspondence school or trade association approved by the department stating that the vehicle dealer has satisfied the four (4) hour continuing education requirements as specified in section 49-1637(1), Idaho Code.

(i) Before any vehicle dealer's license is issued by the department to an applicant who is not licensed with the department as a dealer within the previous twelve (12) calendar months and who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, the applicant shall provide to the department a certification from an accredited educational institution, private vocational school, correspondence school or trade association approved by the department stating that the applicant has satisfactorily completed the open book examination prelicensing class or program requirement requirements, including a written examination of material presented, specified in section 49-1637(1), Idaho Code.

(5) Refuse to issue any license under the provisions of this chapter if, upon investigation, the department finds that any information contained in the application is incomplete, incorrect or fictitious.

(6) Require that a dealer's principal place of business, and other locations operated and maintained by him in conjunction with his principal

place of business, have erected or posted signs or devices providing information relating to the dealer's name, location and address of the principal place of business, and the number of the license held by the dealer.

(7) Provide for regular meetings of the dealer advisory board, to be held not less frequently than semiannually. Notices of meetings of the advisory board shall be mailed to all members not less than five (5) days prior to the date on which the meeting is to be held.

(8) Inspect, prior to licensing, the principal place of business and other sites or locations as may be operated and maintained by the applicant.

(9) Seek and consider the advisory board's recommendations and comments regarding proposed rules promulgated for the administration of the provisions of this chapter.

(10) Require the attendance of not less than one (1) or more than three (3) advisory board members at all hearings held relating to this chapter.

SECTION 2. That Section 49-1637, Idaho Code, be, and the same is hereby amended to read as follows:

49-1637. EDUCATION REQUIREMENTS FOR VEHICLE DEALERS. (1) Except as provided in subsection (2) of this section, the following continuing education requirements shall apply to a vehicle dealer for an initial dealer's license and for the annual renewal, as provided in sections 49-1607(3) and 49-1634, Idaho Code, of a dealer's license:

(a) An applicant for an annual renewal of a dealer's license must complete a four (4) hour education program as described in subsection (3) of this section prior to submitting a renewal application for a vehicle or vessel dealer license.

(b) An applicant requesting an initial vehicle or vessel dealer's license shall be required to ~~pass a comprehensive open book~~ provide certification that he has completed a department approved prelicensing class or program, including an examination on the materials that were presented prior to submitting a license application.

(2) The education requirements of subsection (1) of this section do not apply to an applicant for a full-time or part-time vehicle salesman's license, manufacturer's license, distributor's license or wholesale dealer's license. The following applicants are also exempt from the provisions of subsection (1) of this section:

(a) A vehicle dealer of nationally advertised and recognized new motor vehicles or vessels; and

(b) A franchise dealer of new recreational vehicles, new motorcycles, new all-terrain vehicles, new snowmobiles or new vessels.

(3) The continuing education programs and ~~written open book examination~~ prelicensing class requirements required in subsection (1) of this section shall be developed with input from motor vehicle industry organizations including, but not limited to, the Idaho independent automobile dealers association, and shall be approved by the department-;

(a) Prelicensing classes shall consist of eight (8) hours of instruction or as otherwise approved by the department, which shall include the written examination.

1        (b) Fees applicable to the prelicensing class shall not exceed three  
2        hundred fifty dollars (\$350).

3        (c) Fees applicable to the dealer education program shall not exceed two  
4        hundred dollars (\$200).

5        (d) Any provider as approved by the department shall make the dealer  
6        education programs and prelicensing classes available on a monthly  
7        basis, at a minimum.

8        (4)        The continuing education programs and the prelicensing  
9        class/programs required in subsection (1) of this section may be provided  
10       by accredited educational institutions, private vocational schools,  
11       correspondence schools or trade associations, provided that the continuing  
12       education program ~~has~~ and prelicensing class/programs have been approved by  
13       the department as required in subsection (3) of this section.

14       (5)        The department may promulgate rules as necessary to implement the  
15       provisions of this section.

16       SECTION 3.   This act shall be in full force and effect on and after  
17       January 1, 2011.